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21 Attorneys for Defendants Von Curtis, Inc., P.M.  
Advanced Education Inc., Paul Mitchell  
Advanced Education LLC, John Paul Mitchell  
Systems, PMNV Las Vegas, LLC, PMCA  
23 Bakersfield, LLC, PMHBW LLC, Winn  
Claybaugh, John Paul DeJoria, Paul Mantea,  
24 D'Ann Evans, and Ann-Marie Safadi  
25  
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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

JESSICA MORALES, BERENISA  
CORTES PALOMINOS, DYLAN  
THOMAS, JANETTE BARRERA, and  
FRANCES HANDCOCK, Individually and  
on behalf of all others similarly situated,

**Plaintiffs,**

V.

VON CURTIS, INC., P.M. ADVANCED EDUCATION INC., PAUL MITCHELL ADVANCED EDUCATION LLC, WINN CLAYBAUGH, JOHN PAUL DEJORIA, JOHN PAUL MITCHELL SYSTEMS, PAUL MANTEA, D' ANN EVANS, ANN-MARIE SAFADI, PMNV LAS VEGAS, LLC, PMCA BAKERSFIELD, LLC, PMHBW LLC, and "John Does," name fictitious, name and number unknown, doing business as "Paul Mitchell The School."

### Defendants.

Plaintiffs Jessica Morales, Berenisa Cortes Palomino, Dylan Thomas and Frances Handcock (“Plaintiffs”) and Defendants Von Curtis, Inc., P.M. Advanced Education Inc., Paul Mitchell Advanced Education LLC, John Paul Mitchell Systems, PMNV Las Vegas, LLC, PMCA Bakersfield, LLC, PMHBW LLC, Winn Claybaugh, John Paul DeJoria, Paul Mantea, D’Ann Evans, and Ann-Marie Safadi (collectively “Defendants”) hereby stipulate and agree as follows:

## RECITALS

WHEREAS, Plaintiffs filed an Amended Complaint in this Court on April 29, 2014, against Defendants;

WHEREAS, Defendants' Motion to Dismiss the Amended Complaint pursuant to Fed. Rule of Civ. P 12(b)(6) will be heard by the Court on July 29, 2014;

WHEREAS, in June 2014, the parties met and conferred regarding potential class action certification under Fed. Rule Civ. P. 23 and regarding potential

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1 collective action certification under 29 U.S.C. §216(b);

2 WHEREAS, the parties agree that this lawsuit presents unique legal claims  
3 regarding whether or not the purported class members are employees of the  
4 Defendants, covered by the federal and state wage laws;

5 WHEREAS, counsel for both sides have spent considerable time and effort  
6 analyzing the most resourceful and efficient manner with which to approach  
7 discovery and certification motions relating to the case;

8 WHEREAS, all parties have agreed that it is in the best interests of judicial  
9 resources, time and effort to focus on the unique legal question at issue at the outset  
10 of the case and prior to the filing of a motion for conditional certification of a  
11 collective action or of a motion for class certification;

12 WHEREAS, all parties have agreed that there should be discovery and an  
13 opportunity for court resolution of the legal issue via summary judgment motions on  
14 whether the purported class members are employees of the Defendants covered by  
15 the wage laws prior to the filing of a motion for class or collective certification;

16 WHEREAS, all parties understand that while some matters relating to class  
17 certification may arise while performing discovery on the unique legal issues of  
18 whether the purported class members are employees covered by the wage laws, the  
19 main focus of the initial discovery should target the legal question, and discovery of  
20 such matters shall be thoroughly addressed in an agreed-upon discovery plan, which  
21 will be created for the case as part of the Case Management Statement required by  
22 the Court's February 19, 2014 Case Management Scheduling Order for Reassigned  
23 Civil Cases;

24 WHEREAS, the Court has scheduled a Case Management Conference to  
25 occur on August 7, 2014;

26 WHEREAS, the Parties agree to conduct limited initial discovery regarding  
27 the threshold legal issue of whether the purported class members are employees

1 covered by the wage laws in anticipation of Defendants' and Plaintiffs' summary  
2 judgment motions;

3 WHEREAS the parties agree that if someone is deposed on the legal  
4 questions that might relate to the summary judgment motions, Plaintiffs or  
5 Defendants may also choose to depose him or her simultaneously regarding  
6 questions that may bear upon class or collective action certification, rather than  
7 requiring a deponent to reappear for deposition during a later phase of this litigation  
8 – Plaintiffs and class members, in particular, will only be deposed once each;

9 WHEREAS, Defendants agree to toll the statute of limitations for Plaintiffs'  
10 and putative class members' Fair Labor Standards Act ("FLSA") claims from the  
11 date the Court issues an order granting this Stipulation to the date the Court issues  
12 an order on any motion for summary judgment. By agreeing to this stipulation,  
13 Defendants do not waive objections they have to Fed. R. Civ. P. 23 regarding FLSA  
14 collective action certification, except that Defendants expressly waive any  
15 arguments that such certification is improper because it would permit putative class  
16 members to choose to participate in the class based upon their knowledge of the  
17 Court's prior summary judgment ruling and thus, would amount to permitting a so-  
18 called "one way" intervention as discussed in *American Pipe & Construction Co. v*  
19 *Utah*, 414 U.S. 538, 547 (1974), and other related cases.

20 **STIPULATION**

21 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by  
22 and between Plaintiffs and Defendants through their respective undersigned counsel,  
23 that Plaintiffs shall not file any class action certification or collective action  
24 certification motions under the FLSA and/or Fed. R. Civ. P. 23 until such time as  
25 ordered by the Court in the Case Management Order. Initial discovery shall be  
26 focused on the legal issue of whether or not the purported collective and class action  
27 members are employees of the Defendants covered by the wage laws to allow the

1 parties to litigate that issue through summary judgment, and the statute of  
2 limitations for Plaintiffs' and putative class members' FLSA claims is tolled from  
3 the date the Court issues an order granting this Stipulation to the date the Court  
4 issues an order on any motion for summary judgment.

5 **IT IS SO STIPULATED.**

6 Dated: June 19, 2014

**DUANE MORRIS LLP**

7 By:s/Julie A. Vogelzang

8 Julie A. Vogelzang

9 Edward M. Cramp

10 Courtney L. Baird

11 Attorneys for Defendants VON CURTIS,  
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13 INC., PAUL MITCHELL ADVANCED  
14 EDUCATION LLC, JOHN PAUL  
MITCHELL SYSTÉMS, PMNV LAS  
VEGAS, LLC, PMCA BAKERSFIELD,  
LLC, PMHBW LLC, WINN  
CLAYBAUGH, JOHN PAUL DEJORIA,  
PAUL MANTEA, D'ANN EVANS, and  
ANN-MARIE SAFADI

15 Dated: June 19, 2014

**BRYAN SCHWARTZ LAW  
LAW OFFICE OF LEON GREENBERG**

16 By:s/ Bryan Schwartz

17 Bryan Schwartz

18 Attorneys for Plaintiffs

19 JESSICA MORALES, BERENISA  
CORTES PALOMINÓS, DYLAN  
THOMAS, JANETTE BARRERA, and  
FRANCES HANDCOCK

20  
21 ATTESTATION: Pursuant to Civil L.R. 5-1(i)(3), the filer attests that  
22 concurrence in the filing of this document has been obtained from each of the other  
23 signatories thereto.

24 **ORDER**

25 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

26 Dated: 6/24/2014

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28 JUDGE, U.S. DISTRICT COURT